

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20**

In Re Google, LLC and Alphabet Inc.,)	Case Nos. 20-CA-252957,
a single employer)	20-CA-253105, 20-CA-253464

DISCRIMINATEES/REAL PARTIES IN INTEREST MOTION TO INTERVENE

NOW COMES Laurie M. Burgess (Burgess) independent counsel for individual 8(a)(1) and 8(a)(3) discriminatees (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) in Case No. 20-CA-252957, independent counsel for individual discriminatee (b) (6), (b) (7)(C) in Case Nos. 20-CA-253105 and 20-CA-253464 and counsel of record for discriminatees (b) (6), (b) (7)(C) in Case No. 20-CA-252802 and (b) (6), (b) (7)(C) in Case No. 20-CA-252902, and pursuant to NLRB Regulation 102.9 requests that the Regional Director grant the above real party in interests' request to intervene as of right in these matters. In support of this Motion, the individual discriminatees/real parties in interest state as follows:

A. Background

On or about December 5, 2019, Burgess filed charges against Google regarding the termination of employees (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). Communication Workers of America ("CWA") was listed as "Charging Party" and the charges were docketed as Case No. 20-CA-252957.

On or about December 10, 2019, Burgess filed a charge against Google arising from its conduct of (a) interrogating employee (b) (6), (b) (7)(C) regarding (b) (6), (b) (7)(C) conduct of creating a "pop up" notice that alerted Googlers to their rights under the NLRA, and (b) subsequently terminating (b) (6), (b) (7)(C) employment for engaging in such

conduct. These allegations are included in NLRB Charge Nos. 20-CA-253105 and 20-CA-253464. CWA was listed as the "Charging Party" in these cases.

(b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) filed charges against Google for discipline they received for their role in the NLRB "pop up" notice matter. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) charges were filed in their own name and were assigned Case No. 20-CA-252802 and 20-CA-252902 respectively.

After completing its investigation Region 20 issued Complaints alleging that Google unlawfully terminated the employment of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) unlawfully interrogated (b) (6), (b) (7)(C) and unlawfully disciplined (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). That portion of Charges 20-CA-252802, 20-CA-252902, 20-CA-253105 and 20-CA-253464 alleging that Google unlawfully interrogated (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) regarding their participation in facilitating a mechanism ("Always-Ask-Kent") for employees to send emails to Google's chief legal officer was dismissed. That portion of Charges 20-CA-252957 and 20-CA-253105 alleging that Google unlawfully and disparately applied its "Data Classification policy" to employees who engaged in protected concerted activity was dismissed. Finally, the Region dismissed those Charges alleging that (b) (6), (b) (7)(C) and (b) (6), (b) (7) were unlawfully terminated. The Region concluded that their activities of researching and preparing a petition to challenge Google's involvement in the enforcement of the Trump administration's immigration and border control policies did not involve "terms and conditions of employment" and hence were not protected under Section 7 of the NLRA.

Burgess timely appealed these dismissals. On May 5, 2021 the Acting General Counsel reversed the dismissals and directed that Complaints issue regarding each of these allegations/charges.

B. CWA Disclaims Interest in Representing the Discriminatees

While CWA holds the title of “charging party” in the charges involving the termination of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) CWA was not and is not exclusive representative of any Google employees. Indeed, CWA agents have publicly acknowledged that CWA has no intention of serving in this role. See, e.g. <https://www.theverge.com/2021/1/5/22215171/google-alphabet-union-cwa-organizers-goals-explainer>, <https://www.nytimes.com/2021/01/04/technology/google-employees-union.html> Therefore CWA has never had the rights or the duties of an exclusive bargaining relationship with the individual discriminatees.

After the Complaints issued and the dismissal appeal was filed CWA disclaimed interest in supporting the individual discriminatees in prosecuting these cases. CWA has taken the position that providing support for the individual discriminatees is inconsistent with its strategic goals and that the handling of witness preparation, subpoenas, trial examinations, and arguments should be left solely in the hands of the Regional counsel.

The discriminatees believe that it is important for the full development and prosecution of these cases that their counsel continue to represent them in culling evidence, assisting with trial preparation and developing legal theories in support of the Complaints and that it is critically important that she do so for the soon-to-be-

issued amended Complaints pertaining to the terminations of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) whose cases have not been fully developed because their charges were dismissed.

C. The Discriminatees Request to Intervene to Protect their Rights And Vindicate the Act.

On May 10, 2021 – three business days after Acting General Counsel’s Decision issued reinstating the charges of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) – CWA filed a Notice of Appearance effectively displacing Burgess as counsel in each of the captioned cases and did so without the discriminatees’ knowledge or approval.

The individual discriminatees continue to rely upon Burgess’ extensive knowledge of the cases to develop evidence in support of the soon-to-be newly issued Complaints, to continue preparing the other Complaints for trial, to develop appropriate legal theories and evidence in support thereof, to subpoena documents and witnesses, examine witnesses at trial, prepare trial motions and memoranda, submit post-trial briefing, to zealously represent their interests in any settlement discussions and if necessary, to defend the cases on appeal.

The individual discriminatees are deeply invested in winning (or settling) these cases as doing so provides their only opportunity to be reinstated and obtain backpay from Google. The discriminatees share the NLRB’s interest in ensuring that the Act is vindicated. Thus, their request to intervene not only protects their own interests in these matters but also serves the public interest in ensuring that the NLRB has the continuing assistance of the non-government lawyer who developed the factual and legal theories at issue in these important cases.

For the foregoing reasons Discriminatees (b) (6), (b) (7)(C),

(b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) request that the Motion to Intervene be GRANTED forthwith.

May 26, 2021

Respectfully submitted,

(b) (6), (b) (7)(C)



By:

Laurie M. Burgess
Their Counsel

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¹ Even though (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) are the charging parties in their individual cases they support the instant Motion to ensure that the discriminatees in charges that are inextricably connected to theirs receive the benefit of full participation and representation in their cases.

NOTICE OF FILING AND CERTIFICATE OF SERVICE

Please take notice that this 26th day of May, 2021, the undersigned e-filed the attached **Discriminatees/Real Parties in Interest Motion to Intervene** with Region 20, a copy of which is hereby served upon you pursuant to NLRB Regulation 11846.4(b).

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CERTIFICATE OF SERVICE

I, Laurie M. Burgess, Burgess Law Offices P.C., certify that this 26th day of May, 2021, served a copy of the foregoing **Discriminatees/Real Parties in Interest Motion to Intervene** on the above parties of record, by and through their counsel, by sending a copy of same via email (lburgess@burgess-laborlaw.com) to their individual email addresses above.

Dated: May 26, 2021



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